WAKE COUNTY

IN THE GENERAL COURTS OF JUSTICE SUPERIOR COURT DIVISION 11 CVS

NORTH CAROLINA NO DOUGLES U.S.O.

THE NORTH CAROLINA STATE BAR, ) PETITIONER, )	
v. )	CONSENT ORDER OF PRELIMINARY INJUNCTION
ROBERT MORGAN SMITH, ATTORNEY,) RESPONDENT.	

THIS MATTER came on to be heard and was heard by the undersigned Judge of Superior Court of Wake County on motion of Petitioner, the North Carolina State Bar. Petitioner was represented by Leanor Bailey Hodge. Respondent, Robert Morgan Smith was represented by Jeffery B. Foster. Based upon the consent of the parties, the Court makes the following:

## FINDINGS OF FACT

- 1. Respondent, Robert Morgan Smith ("Smith"), was licensed to practice law in North Carolina on 22 March 2003.
- 2. As of the date of this petition, Smith's last known address of record on file with the North Carolina State Bar is 104 South William Street, Goldsboro, North Carolina 27530.
- 3. The State Bar's preliminary investigation indicates that Smith has mishandled funds that were delivered to him in trust for the federal government and misused credit cards that were entrusted to him as a partner of the firm in which he was previously employed.
  - 4. Smith desires to cooperate with the State Bar.
- 5. A need for prompt action exists to ensure that entrusted funds are not mishandled in the future.

Based upon the foregoing Findings of Fact, the Court makes the following

CONCLUSIONS OF LAW

- 1. Prompt action, pursuant to N.C. Gen. Stat. 84-28(f), is necessary to preserve the status quo while the State Bar conducts an analysis of Smith's trust and operating accounts and to ensure that further entrusted funds are not mishandled.
- 2. Smith should be enjoined from accepting any further funds from or on behalf of clients or others in a fiduciary capacity, from writing checks against any account in which client or fiduciary funds have been deposited, and from directing or permitting any employee or agent over whom Smith exercises control to withdraw funds from and/or draw a check on any account in which client or fiduciary funds have been deposited, except as expressly authorized by this Court.
- 3. To assist the State Bar's analysis of his trust accounts, Smith should provide the State Bar with records of all accounts in which client or fiduciary funds have been deposited.

## THEREFORE, IT IS HEREBY ORDERED:

- 1. Robert Morgan Smith is enjoined from accepting or receiving any funds from clients or third parties in a fiduciary capacity, from withdrawing any funds from and/or drawing any checks or other instruments against any account in which client or fiduciary funds have been deposited, and from directing or permitting any employee or agent over whom Smith exercises control to withdraw funds from and/or to draw any checks on or otherwise disburse or withdraw funds from any account in which client or fiduciary funds have been deposited, until and unless expressly permitted to do so by subsequent orders of this Court.
- 2. Smith or any other person having custody or control of records relating to any account into which client or fiduciary funds have been deposited shall immediately produce to the North Carolina State Bar for inspection and copying all of Smith's financial records relating to any account into which client or fiduciary funds have been deposited, including, but not limited to bank statements, canceled checks, deposit slips, client ledgers, check stubs, debit memos and any other records relating to the receipt and disbursement of client and/or fiduciary funds.
- 3. Smith, or any other person having custody or control over records relating to persons or entities for which he has provided legal services and/or for whom Smith has purported to withhold taxes, shall produce to the North Carolina State Bar for inspection and copying all records and documents relating to each such person or entity including but not limited to client files, billing statements, memoranda, receipts, employee tax withholding forms, employee W-2 forms and any other records and documents relating to employee tax withholding. Documents relating to current clients and employees shall be produced within 24 hours of demand by the State Bar. Documents relating to closed client files and former employees shall be produced within 3 days of demand by the State Bar.

- 4. If Smith does not have possession of the minimum records required to be maintained regarding trust and fiduciary funds pursuant to Rule 1.15-3 of the Revised Rules of Professional Conduct, he shall direct the bank(s) where his bank account(s) are maintained, within 10 days of the date of this order, to copy and transmit any such missing records directly to the North Carolina State Bar at Smith's expense.
- 5. Smith shall not serve in any fiduciary capacity, including trustee, escrow agent, personal representative, executor or attorney-in-fact, until and unless he is permitted to do so by further order of this Court.
- 6. This Consent Order of Preliminary Injunction shall remain in effect until further order of this Court.

Superior Court Judge Presiding

WE CONSENT:

Leanor Bailey Hodge Attorney for Petitioner The North Carolina State Bar

Jeffery B. Foster Attorney for Respondent Robert Morgan Smith

Robert Morgan Sn

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	THIS the Sday of June	, 2011.	
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/	WE CONSENT:  Leapor Bailey Hodge  Attorney for Petitioner		
	The North Carolina State Bar		
	Jeffery BxFosker Attorney for Respondent		

Robert Morgan Smith

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